

Office of Personnel Management

§ 890.1031

for production of one which may be purchased at cost.

(e) *Presiding official's findings.* The presiding official shall resolve all of the disputed facts identified by the debarring official, on the basis of a preponderance of the evidence contained within the entire administrative record. The presiding official shall issue a written report of all findings of fact to the debarring official within 30 days after the record of the fact-finding proceeding closes.

§ 890.1029 Deciding a contest after a fact-finding proceeding.

(a) *Findings shall be accepted.* The debarring official shall accept the presiding official's findings of fact, unless they are arbitrary, capricious, or clearly erroneous. If the debarring official concludes that the factual findings are not acceptable, they may be remanded to the presiding official for additional proceedings in accordance with § 890.1028.

(b) *Timeframe for final decision.* The debarring official shall issue a final written decision on a contest within 30 days after receiving the presiding official's findings. The debarring official may extend this decision period for good cause.

(c) *Debarring official's final decision.* (1) The debarring official shall observe the evidentiary standards and burdens of proof stated in § 890.1024 in reaching a final decision.

(2) In any case where a final decision is made to debar a provider, the debarring official has the discretion to set the period of debarment, subject to the factors identified in §§ 890.1016 through 1021.

(3) The debarring official has the discretion to decide not to impose debarment in any case involving a permissive debarment authority.

(d) *No further administrative proceedings.* No further administrative proceedings shall be conducted after the debarring official's final decision in a contest involving an additional fact-finding hearing. A provider adversely affected by the debarring official's final decision in a contested case may appeal under 5 U.S.C. 8902a(h)(2) to the appropriate U. S. district court.

SUSPENSION

§ 890.1030 Effect of a suspension.

(a) *Temporary action pending formal proceedings.* Suspension is a temporary action pending completion of an investigation or ensuing criminal, civil, or administrative proceedings.

(b) *Immediate effect.* Suspension is effective immediately upon the suspending official's decision, without prior notice to the provider.

(c) *Effect equivalent to debarment.* The effect of a suspension is the same as the effect of a debarment. A suspended provider may not receive payment from FEHBP funds for items or services furnished to FEHBP-covered persons while suspended.

§ 890.1031 Grounds for suspension.

(a) *Basis for suspension.* OPM may suspend a provider if:

(1) OPM obtains reliable evidence indicating that one of the grounds for suspension listed in paragraph (b) of this section applies to the provider; and

(2) The suspending official determines under paragraph (c) of this section that immediate action to suspend the provider is necessary to protect the health and safety of persons covered by FEHBP.

(b) *Grounds for suspension.* Evidence constituting grounds for a suspension may include, but is not limited to:

(1) Indictment or conviction of a provider for a criminal offense that is a basis for mandatory debarment under this subpart;

(2) Indictment or conviction of a provider for a criminal offense that reflects a risk to the health, safety, or well-being of FEHBP-covered individuals;

(3) Other credible evidence indicating, in the judgment of the suspending official, that a provider has committed a violation that would warrant debarment under this subpart. This may include, but is not limited to:

(i) Civil judgments;

(ii) Notice that a Federal, State, or local government agency has debarred, suspended, or excluded a provider from participating in a program or revoked or declined to renew a professional license; or